

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 31 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HECTOR BACA-QUIROZ, AKA Hector
Ruiz-Quiroz, AKA Hector Quiroz-
Valasquez,

Defendant - Appellant.

No. 08-30448

D.C. No. 2:08-cr-00013-DWM

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted August 20, 2009^{**}

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Hector Baca-Quiroz appeals the sentence imposed following his guilty plea to illegal reentry after deportation in violation of 8 U.S.C. § 1326(a). Baca-Quiroz contends that the district court erred by failing to consider that the lack of a "fast-track" program in the District of Montana creates an unwarranted sentencing disparity contrary to the requirements of 18 U.S.C. § 3553(a)(6). Baca-Quiroz acknowledges that his contention is foreclosed by *United States v. Gonzalez-Zotelo*, 556 F.3d 736, 740-41 (9th Cir. 2009), and that he raises it to preserve it for potential future review.

AFFIRMED.